



**THE ATTORNEY GENERAL
OF TEXAS**

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AUSTIN, TEXAS 78711

December 3, 1969

Honorable Wilson E. Speir
Director
Texas Department of Public Safety
5805 North Lamar Blvd.
Austin, Texas 78751

Opinion No. M-529

RE: Penalty for operating
a motor vehicle for the
transportation of school
children without signs
on the vehicle containing
the words "school bus".

Dear Mr. Speir:

You have requested the opinion of this office concerning what penalty applies for the operation of a motor vehicle for the purpose of transporting school children without the vehicle having signs containing the words "school bus".

Article 670ld, Section 104(b), Vernon's Civil Statutes, contains the following language:

"Every bus used for the transportation of school children shall bear upon the front and rear thereon a plainly visible sign containing the words 'school bus' in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating 'school bus' shall be covered or concealed."

The penalty for violating Article 670ld is found in Section 143:

"(a) It is a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other law of this State declared to be a felony.

"(b) Every person convicted of a misdemeanor for a violation of any of the provisions of this Act for which another penalty is not provided shall be punished by a fine of not less than One (\$1.00) Dollar nor more than Two Hundred (\$200.00) Dollars."

The latest legislature made the following provision in the new Texas Education Code, Acts 61st Leg., R.S. 1969, ch. 889, p. 2709 (House Bill 534):

"Sec. 4.18. OPERATION OF SCHOOL BUSES. (a) All vehicles used for the transportation of pupils to and/or from any school or college shall have a sign on the front and rear and on each side of the vehicle, showing the words 'School Bus' and such words shall be plainly readable in letters not less than eight inches in height. It shall be the duty of the operator of any school bus to see that the signs are displayed, but if a school bus is being operated on a highway for any purpose other than the transportation of pupils, the markings indicating 'School Bus' shall be covered or concealed.

"(b) Any person who violates the provisions of this section shall be guilty of a misdemeanor unless such violation is by other law of this state declared to be a felony. Every person convicted of a misdemeanor for violation of this section shall be fined not less than \$1 nor more than \$200 or confined in the county jail not to exceed 90 days or both; provided, however, that if death results to any person, caused either actually or remotely by a noncompliance or violation of this section, then and in that event, the party or parties so offending shall be punished as is now provided by law."

Since both of the foregoing statutes refer to the same subject, the question arises as to which act is controlling. The Texas Education Code is a revision of laws pertaining to public education and expressly repeals various listed statutes and also expressly leaves in effect various listed statutes. Article 670ld, Section 104(b) is neither expressly repealed nor expressly left in effect. The latest expression of the legislature, however, impliedly repeals prior inconsistent laws. Allied Finance Company of Bay City v. Falkner, 397 S.W.2d 846 (Tex.Sup.Ct., 1965); State v. Easley, 404 S.W.2d 296 (Tex.Sup.Ct., 1966).

In Ex Parte Sanford, 289 S.W.2d 776 (Tex.Crim., 1956), two penal laws covering the same subject and prescribing different penalties were both held invalid. The problem of statutory construction in Ex Parte Sanford, supra, can be distinguished from the question with which this opinion is concerned, however. The Sanford case involved the Election Code, which expressly provided that prior penal laws were not repealed. Thus no implied repeal could arise. See Daniels v. State, 370 S.W.2d 885 (Tex.Crim., 1963). The Texas Education Code can be said to repeal prior conflicting statutes by implication, since no provision of the statute expressly excepts Article 670ld, Section 104 (b), or penal laws in general from repeal.

The more recent statute, the Texas Education Code, is more detailed than Article 670ld, Section 104(b). Section 4.18 of the code requires the term "school bus" to be included on each side of the vehicle as well as the front and rear. Section 4.18 also clearly places on the driver the responsibility for displaying the signs on the vehicle, while Article 670ld makes no reference to a particular person. Section 4.18 adds a possible jail sentence to the penalty, in addition to the fine. The legislature thus has modified the requirements and increased the penalty relating to the markings on school buses and has combined the provisions with other statutes relating to public education. When the legislature has passed a comprehensive act, such as the Texas Education Code, making unlawful an action also denounced by a previous statute and increasing the penalty, the newer act supersedes the older act and repeals the same by implication. Lane v. State, 305 S.W.2d 595 (Tex.Crim., 1957).

This office is of the opinion that House Bill 534 (Acts 61st Leg., R.S. 1969, ch. 889, p. 2709) has superseded the provisions of Article 670ld, Section 104(b),

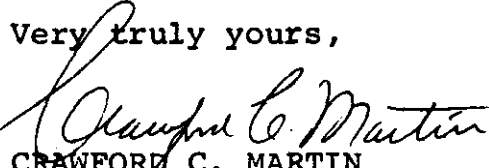
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Vernon's Civil Statutes. Other provisions of Article 6701d, Section 104, are not affected.

SUMMARY

The requirements and penalty set out in House Bill 534 (Acts 61st Leg., R.S. 1969, ch. 889, p. 2709), have superseded Article 6701d, Section 104(b), Vernon's Civil Statutes.

Very truly yours,


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